

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**  
**ASSESSMENT APPEALS COMMISSION**

Appeal of:

CORPORATE PROPERTY INVESTORS	)	
Ward 85, Block 17, Parcel 00001	)	Shelby County
Commercial Property	)	
Tax Years 2003-2004	)	

**FINAL DECISION AND ORDER**

This is an appeal by the taxpayer from the initial decision and order of the administrative judge, who determined that the State Board of Equalization lacked jurisdiction to hear the appeals for either 2003 or 2004. The administrative judge dismissed the taxpayer's appeals, leaving in place the assessor's values for the property as follows:

<u>Year</u>	<u>Land</u>	<u>Improvement</u>	<u>Total</u>	<u>Assessment</u>
03-04	\$ 2,520,700	\$2,589,000	\$5,109,700	\$2,043,880

The appeal was heard in Memphis on July 10, 2006, before Commission members Stokes (presiding), Brooks, Gilliam and Wade.<sup>1</sup> Mr. David C. Scruggs and Mr. A. Kent Gieselmann, Jr. represented the taxpayer, and Mr. John Zelinka represented the Shelby County Assessor.

**Findings of Fact and Conclusions of Law**

The subject parcel is 15.517 acres of land and a structure previously utilized as an anchor department store at Raleigh Springs Mall in Memphis. As of the assessment date for the years at issue (January 1), the property was vacant. In 2002 the property was sold to Raleigh Springs Mall LLC by way of recorded deeds which identified The Realty Asset Group, LTD of Rockville Centre, NY as the party responsible for payment of taxes and to whom tax notices were to be sent. Nevertheless, tax notices for 2003 and 2004 were in fact sent to the previous owner. Counsel for the taxpayer asserts these circumstances warrant our finding jurisdiction either on the basis that the taxpayer was denied due process notice of the assessment or that reasonable cause existed excusing compliance with the jurisdictional prerequisites under Tenn. Code Ann. §67-5-1412.

The Commission finds that the deadline to seek relief under Tenn. Code Ann. §67-5-1412 had expired for tax year 2003 before the taxpayer filed its appeal for

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<sup>1</sup> Mr. Wade sat as a predesignated alternate for an absent member.



that year. For the reasons expressed by the administrative judge, the Commission further finds that failure of the tax collectors to correctly address the tax notices for that year does not amount to denial of due process.

For tax year 2004, the taxpayer's appeal was received within the deadline for a reasonable cause determination, and the Commission concludes that reasonable cause has been shown. Although the taxpayer was not entitled to notice of an assessment change, there having been no change in the assessment, the law clearly contemplates that tax notices, if they are sent, should be sent to the party requesting them. Although a correctly mailed notice might have been too late to prompt an appeal for 2003, a correctly mailed 2003 tax notice would almost certainly have spurred the taxpayer to act for 2004. This is plainly more than a case of an inattentive taxpayer.

#### ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is affirmed as to tax year 2003 and reversed as to 2004. In view of the parties' stipulation for tax year 2004, the assessments are determined as follows:

<u>Year</u>	<u>Land</u>	<u>Improvement</u>	<u>Total</u>	<u>Assessment</u>
2003	\$ 2,520,700	\$2,589,000	\$5,109,700	\$2,043,880
2004	\$ 673,700	\$ -0-	\$673,700	\$269,480

This order is subject to:

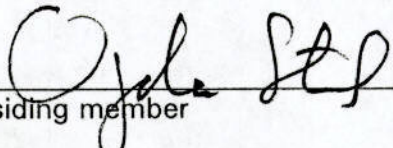
1. Reconsideration by the Commission, in the Commission's discretion. Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
3. Review by the Chancery Court of Davidson County or other county as determined by law. A petition must be filed within sixty (60) days from the date of



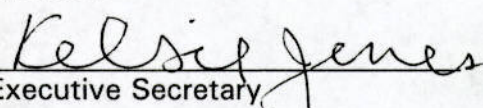
the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: Aug. 22, 2006

  
Presiding member

ATTEST:

  
Executive Secretary

cc: Mr. David Scruggs, Esq.  
Mr. Thomas Williams, Asst. County Atty.  
Ms. Rita Clark, Assessor